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Before the
Federal Communications Commission
Washington, D.C. 20554

*In the matter of
FM Table Of Allotments
Shelbyville, Indiana
Channel 262A
Non Commercial Use Only*

RM 11324

Attention : Secretary

Motion To Accept Late filed comments

Motion To Accept Late Filed Comments

Indiana Community Radio Corporation Requests Commission Staff accept late filed comments in the above noted matter. No notice to an existing prefiled Petition was presented. The Shelbyville Petition by ICRC has not been processed in order of presentation.

As Indiana residents have been unable to comment or have adequate Public Notice on the 11324 Rulemaking this is in The Public Interest. As the Shelbyville Petition was filed months prior to the current Rulemaking and not processed in order of presentation these late filed comments are timely.

As Commission criteria clearly supports proposals which provide first or second noncommercial service the ICRC Petition which has been previously submitted is more valuable than any other allocation when reviewing comparative Rules established by Commission Policy.

Allowing RM 11324 to establish first time service to provide first time service to Hope is establishment of another Columbus Indiana radio station and Columbus has 5 stations currently licensed (WKKG, WYGS, WCSI, WINN, WHUM) and a translator for Indiana University. Two additional Class B FM stations, WRZQ Greensburg and WWWY North Vernon, and Class A stations WYGB Edinburgh, WKRY Versailles, and WAUZ Greensburg operate from Columbus.

A Tuck Showing has not been presented in this matter but should be required as a result of the fact that all radio stations in the county are located in Columbus. As well Columbus is the economic and social center of Bartholomew County and Hope is dependent on Columbus.

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Granting CH 262 at Hope Indiana will force Indiana University station WIUX off the air. This will create an unspeakable loss to Indiana University Students who use this as a training facility.

The proximity of Station WRTV-TV, Channel 6, Indianapolis, Indiana, precludes the availability of any noncommercial educational channels in the reserved band from which a full Class A channel could operate to serve Shelbyville. Petitioner asserts that the allotment and reservation of Channel 262A at Shelbyville could provide an NCE service to the community in full compliance with the technical requirements of the Commission's rules.

Background

Indiana Community Radio Corporation (ICRC) has requested in December of 2005 and January of 2006 that the Table Of Allocations be amended to include CH 262A for Morristown or Shelbyville Indiana for noncommercial use only. Staff has not denied the Rulemaking request and the PRM has not received a docket number or Public Notice. The request filed has not received Public Notice.

Indiana Community Radio Corporation located CH 262A for use in 2005 and properly requested the Commission provide a Rulemaking Proceeding in 2005. ICRC proposed coordinates which could be used with a site restriction. Commission Staff indicated the

ICRC has properly requested a Petition For Rulemaking that will provide first time noncommercial service to Shelby County Indiana. *Shelby County has no locally located radio station of any type with a studio in Shelbyville or even within the county.* WLHK is licensed to Shelbyville but is not located in Shelbyville and it's transmitter is in Marion County Indiana. WLHK is located in downtown Indianapolis. WKWH is licensed to Shelbyville but is not located in Shelbyville. WKWH is located in Rushville, Indiana in Rush County.

WJCF has been involved actively in Shelby County but due to Channel 6 restrictions has not been able to locate in it's county of License. A favorable grant of this Petition, previously filed, would be in teh Public Interest.

Engineering Showing

This Engineering Showing is in support of a Petition For Rulemaking by Indiana Community Radio Corporation ("**ICRC**").

Commercial channels are generally not reserved for noncommercial use in allotment proceedings unless channels in the reserved portion of the **FM** band (Channels 201-220) are unavailable due to prohibited interference to TV Channel 6 or to foreign allotments.' Alternatively, a proponent can demonstrate that it is technically precluded from using a reserved channel by existing stations or previously filed applications and the proposed station would provide a first and/or second NCE radio service to at least 10 percent of the population within the 1

mV/m (60 dBu) contour of the proposed station, such population must exceed 2,000 persons. Therefore, the enumerated potential TV 6 interference from Station WRTV merits the proposed allotment and reservation of Channel 262A for NCE use at Shelbyville.

The Engineering Showing demonstrates : 1) Commission Rules allow changes as proposed and 2) Such a change is permissible within the Commission Process without shortspacing to existing or proposed stations.

ICRC is Licensee of WJCF Morristown, Indiana which operates on **Channel 201A**. Since the inception of WJCF, ICRC has received complaints of interference to a local Channel 6 station, WRTV Indianapolis.

In addition, WJCF has had reception difficulties in it's City Of License, Morristown, Indiana with reception. This is due specifically to local terrain.

In support of the noted moves associated with the Rule Making and as a result of the downgrade of Channel 262A at Connersville, Indiana, Channel 262A can be allocated to as a non commercial service without affect to any existing or proposed allocation and replace the current allotment of CH 201A.

As a current Commission Rulemaking requires settlement of all previously submitted Rulemaking Proceedings The Engineering Showing demonstrates the ICRC Petition should be settled before termination of the proceeding requested by ICRC.

CH 262 Allocation Availability

A Channel Study utilizing Class A facilities of 6kw at 100 meters at 100.3 show the allocation is clear to all existing stations or applications. As Commission Staff has terminated the Connersville proceeding the Connersville CH 262 has been deleted and is now clear at 39-28-57.8 N, 85-49-50.2. An earlier site provided could have been allocated with a site restriction but the ICRC Petition has not received processing or dismissal. Staff refused to process the request for Rulemaking within the Connersville proceeding and allowed no Public Notice of the ICRC request.

Commission Rules allow a site closer to Morristown, Indiana but do not allow this location to be the "*allocation*" coordinates. As Commission Staff has not commented if they will allow 60dbu covderage of Morristown this amendment also requests a City Of License change for WJCF which would also allow 70dbu coverage of Shelbyville, Indiana. ComStudy 2.2 search of channel 262 (100.3 MHz Class A) at 39-28-57.8 N, 85-49-50.2 W.

CALL	CITY	ST	CHN	CL	DIST	S	BRNG	CLEARANCE
	CONNERSVILLE	IN	262	B	62.69	178.00	73.4	-115.3
	MORRISTOWN	IN	262	A	5.47	115.00	169.0	-109.5

	SPEEDWAY	IN 265 A	50.92	31.00	313.2	19.9
	NORWOOD	OH 262 A	115.56	115.00	109.6	0.6
880126NK	LOUISVILLE	KY 263 C2	145.94	106.00	169.4	39.9
NEW	BOGGSTOWN	IN 264 D	15.97	0.00	320.3	16.0
NEW	COLUMBUS	IN 260 D	28.68	0.00	199.4	28.7
NEW	COLUMBUS	IN 260 D	29.41	0.00	197.4	29.4
NEW	COLUMBUS	IN 261 D	29.11	0.00	185.9	29.1
NEW	EDINBURGH	IN 262 D	10.50	0.00	206.0	10.5
NEW	FRANKLIN	IN 263 D	20.36	0.00	269.4	20.4
NEW	GREENFIELD	IN 264 D	35.11	0.00	8.1	35.1
NEW	GREENFIELD	IN 264 D	39.50	0.00	9.7	39.5
NEW	GREENWOOD	IN 262 D	32.48	0.00	301.8	32.5
NEW	GREENWOOD	IN 264 D	32.48	0.00	301.8	32.5
NEW	NEW PALESTINE	IN 262 D	32.47	0.00	349.3	32.5
NEW	NEW PALESTINE	IN 264 D	32.47	0.00	349.3	32.5
NEW	NORRISTOWN	IN 263 D	9.49	0.00	153.0	9.5
NEW	SHELBYVILLE	IN 264 D	14.91	0.00	58.4	14.9
NEW	WHITELAND	IN 261 D	21.88	0.00	291.6	21.9
W264AL	COLUMBUS	IN 264 D	28.68	0.00	199.4	28.7
WFCI	FRANKLIN	IN 208 A	27.88	10.00	253.1	17.9
WFCI	FRANKLIN	IN 208 A	27.88	10.00	253.1	17.9
WIFE	CONNERSVILLE	IN 262 B	62.52	178.00	73.3	-115.5
WIFE	CONNERSVILLE	IN 262 B	62.69	178.00	73.4	-115.3
WIUX-LP	BLOOMINGTON	IN 262 LP100	66.28	67.00	239.8	-0.7
WRGF	GREENFIELD	IN 209 A	37.15	10.00	23.4	27.2
WTFX-FM	LOUISVILLE	KY 263 C2	140.29	106.00	169.3	34.3
WWKI	KOKOMO	IN 263 B	114.43	113.00	350.8	1.4
WWKI	KOKOMO	IN 263 B	114.43	113.00	350.8	1.4
WYJZ	SPEEDWAY	IN 265 A	46.12	31.00	329.2	15.1

NCE First and Second Service Showing

From the Allocation Coordinates provided 128,689 persons are within the 60dbu of the Channel 262 allocation. In the 80 dbu there is no existing non commercial station that overlaps contours and there are 6,905 persons. Contours for WFYI, WRFT, and WICR are completely within WFYI Contours and in the contour overlap of WJCF and WFYI includes 26, 371 persons. Contour overlap between WFCI (which simulcasts WFYI programming) and WJCF includes 31, 837 persons. Contour overlap with WYGS and WAUZ (and noting stations WYGS and WAUZ overlap signals) includes 45, 169 persons. The total of persons who receive service from an NCE station are 103,377. **25, 312 persons receive first service as a result of the allocation.**

Second service would include those persons who are within the contour overlap with WYGS and WAUZ (as these stations simulcast programming) and this includes 45, 169 persons. Second service would include the persons within the

WFCI contour overlap and this is 31,837 persons. 77,006 persons would receive second service.

The methodology for performing an NCE evaluation is performed by Com Study. ComStudy 2.2 can count first and second service populations using the 2000 NAD 27 census as required by FCC. .

Channel 262A Morristown

WJCF has reception difficulties in it's City Of License, Morristown, Indiana.

The theoretical 60dbu of WJCF covers Morristown but signal measurements in Morristown, Indiana indicate the signal is less than a 60dbu signal. Engineering analysis determined that this was due to terrain and the many old growth trees in this area.

ICRC has attempted to raise the existing tower for WJCF and has attempted to relocate to another tower. The local zoning authority opposes any tower addition due to the complaints sent to the zoning authority by local residents who note interference to WRTV Channel 6. No height restriction exists for tower structures properly zoned. Despite the proper zoning the local zoning authority will not issue a building permit, which IS required. The local zoning authority has attempted to redact the zoning for the present tower due to interference. This is an ongoing dispute.

The movement of WJCF appears to be limited to Rush County Indiana and on Channel 201A there is no ability to erect a new tower or modify the existing tower to provide better service to Morristown, Indiana, or modify a Commission License. A modification of the License for WJCF to Channel 262A would be in the Public Interest.

WJCF has had *significant contact* in regards to interference with the audio of WRTV Channel 6 because WJCF is at 88.1 and WRTV audio is at 87.75. Due to changes in the WRTV signal after the Construction Permit for WJCF was issued the WRTV signal is very weak in the area near the WJCF tower. Terrain sheilding to the WRTV tower directly affects the WRTV signal.

Over 600 names were on petitions sent to local government officials regarding interference to WRTV. Local residents do not understand electronics and how a weak television signal contributes to audio reception of WRTV. Commission Rules would support a move to CH 262A which eliminates this problem created by the original allocation

WJCF has provided technical support, filters, and other assistance but those who live near the tower have a hatred for the station . This has resulted in vandalism to the building, tower, death threats to station volunteers, and even

workers on the WJCF tower who have been shot at. A channel change to 262A for WJCF is in the Public Interest.

WJCF has experienced many difficulties due to the expenses incurred when legal challenges have been made by McGraw Hill, licensee of WRTV. WRTV has hampered the ability of WJCF to make technical changes and has opposed WJCF in many arenas, and also before the Commission. WRTV has noted the impact of WJCF has resulted in interference to thousands of television viewers.

Commission precedent in this area is specific. Another local noncommercial station, WFIU Bloomington, Indiana, was originally allocated in the reserved band and due to Channel 6 interference the Commission changed the WFIU allocation to Channel 279B in the nonreserved band.

Previous Commission actions concerning an allocation at Wilmore, Kentucky are also a clear indication that a one step move from a reserved channel to a non reserved channel would be appropriate without public comment. Commission Staff has indicated it must initiate a docketed proceeding but has failed to initiate this as requested by ICRC. There is an obvious problem with consideration of another Rulemaking out of processing request order.

WJCF is interested in digitally broadcasting its signal. At 88.1 the digital interference on 87.9 will remove Channel 6 from most televisions in the area surrounding the WJCF tower. An allocation change from Channel 201A to Channel 262A is in the Public Interest.

WJCF currently covers 863 square kilometers and has 23,790 persons in its current 60dbu coverage area. WJCF coverage would increase to 2321.8 square Kilometers and add population to its 60dbu coverage area to 128,689 persons. ***Over 100,000 persons would gain additional coverage from WJCF.*** This would be in the Public interest.

WJCF provides an engineering report on CH 262A that provides coordinates. At 6kw the allocation is shortspaced to WIFE at Channel **262B** but is not shortspaced to WIFE Norwood Ohio Channel **262A**. The Commission has deleted CH 262 at Connersville and has terminated the proceeding. There is no other shortspacing.

Upon approval of the PRM WJCF would apply to modify its current Construction Permit, or, alternatively, file a new Construction Permit for the new facilities. ICRC requests the ability to use contour protection in the siting of the Construction Permit. This is in the Public interest.

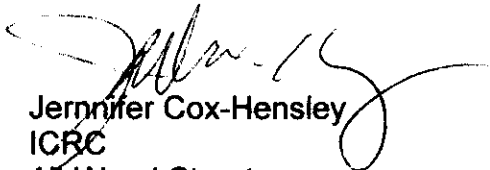
Conclusion

The ICRC request was presented first and should have received a docketed proceeding prior to the current Rulemaking Request. The ICRC Petition has not received Public Notice or dismissal. The ICRC request has received regular

followup and was amended to allow for processing and should have it's own docketed Rulemaking based on it's merits.

The ICRC request meets Commission Rules for allocation purposes and merits consideration based on first or second noncommercial service. Resolution of WRTV Channel 6 reports of thousands of viewers with reception difficulties the allocation meets additional Commission historical or legacy goals of noncommercial allocations.

The Hope Indiana allocation is less meritorious than the ICRC request based on Commission Rules and past actions, Given the many issues with the Hope Indiana allocation (Tuck Showing, lack of Public Notice, removal of service to Indiana University WIUX) has many troublesome results.



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